

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

0.17 ACRES OF LAND, MORE OR LESS,
SITUATED IN STARR COUNTY,
TEXAS; AND UNKNOWN OWNERS, ET AL.,

Defendant.

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CASE NO. 7:09-CV-009

**UNITED STATES' AND LANDOWNERS' JOINT RESPONSE TO THE DISTRICT
COURT'S ORDER FOR A CASE STATUS UPDATE**

COMES NOW the United States of America and Lazaro Rodriguez (hereinafter "Landowner"), and in response to the District Court's September 4, 2012, Order to inform the Court on the status of the case; inform the Court of any impediment to resolving the case; and, the prospects of resolution in the near future aver as follows:

This condemnation action was initiated on January 7, 2009 (Docket No. 1 & 2). On January 9, 2008, the United States deposited \$3,300.00 in the Registry of the Court as its estimated just compensation for the acquisition (Docket No. 4). On January 23, 2009, the United States filed its motion to substitute Lazaro Rodriguez in place of Unknown Owners (Docket No. 5) which was granted by the Court on the same date (Docket No. 6). The United States and Landowner have not agreed on the amount of just compensation in this matter.

To date, the United States has not finalized a title commitment, land survey, or fence alignment through the area of the take. Therefore, the United States cannot enter an agreement with the Landowner representing a final resolution of the case. The United States expects to

finalize the title commitment, land survey, and fence alignment for this tract by August 2013. Once finalized, the United States will file an Amended Declaration of Taking establishing final metes and bounds descriptions of the take and resolving any outstanding access and/or title issues. At that point, the United States and Landowner can begin negotiations as to just compensation and attempt to resolve this matter without the need of a trial.

The United States has undertaken efforts in the last thirty (30) days to reach the Landowner by sending a copy of the Court's Order and requesting that the Landowner contact the Brownsville Division of the United States Attorney's Office to discuss this case. The Landowner in this case received the United States' most recent correspondence, and the United States has been able to confer with the Landowner as directed by the Court.

Mr. Rodriguez would like the Court to know that he believes his father sold the land some time ago but it was not sold with a document and nothing regarding the transfer is filed in the County records. Mr. Rodriguez does not know who bought the land. Mr. Rodriguez still pays taxes on the land.

The United States Attorney's Office will work with Mr. Rodriguez to try and determine who may have purchased the land from Mr. Rodriguez's father and what legal rights that buyer may have, if any. The United States Attorney's Office will request a title hearing from the Court should it become necessary.

The Landowner agrees along with the United States that no scheduling order is required in this case. Both parties hope to begin negotiations and resolve the issue of just compensation once the Amendment to Declaration of Taking is filed. If it appears the parties will be unable to resolve the issue of just compensation, the parties will file a motion with the Court seeking a scheduling order.

WHEREFORE, premises considered, the United States and the Landowner pray the Court continue the suspension of deadlines in this matter pending final resolution of the Amended Declaration of Taking, just compensation and any title issues raised as a result of filing the Amended Declaration of Taking.

Respectfully submitted,

FOR LANDOWNER:

FOR PLAINTIFF

KENNETH MAGIDSON
United States Attorney
Southern District of Texas

s/ Lazaro Rodriguez (by permission)
LAZARO RODRIGUEZ

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